



State of Washington
PUBLIC DISCLOSURE COMMISSION

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9:00 a.m.
August 27, 2002

MINUTES – REGULAR MEETING

John Cherberg Building
Senate Hearing Room 2
Capitol Campus
Olympia, Washington

COMMISSION MEMBERS PRESENT

Mike Connelly, Chair
Susan Brady, Vice Chair
Lois Clement, Secretary
Christine Yorozu, Member
Francis Martin, Member

STAFF PRESENT

Vicki Rippie, Executive Director
Susan Harris, Assistant Director
Michael Smith, Chief Tech. Officer
Nancy Krier, Asst. Attorney General
Linda Dalton, Sr. Asst. Attorney General
Ruthann Bryant, Secretary

The regular meeting of the Public Disclosure Commission was called to order by Commission Chair Mike Connelly at 9:00 a.m. in the John Cherberg Building, Senate Hearing Room 2, Capitol Campus, Olympia, Washington.

Commissioner Comments

Commissioner Connelly reported that Superior Court judge Paula Casey dismissed the case of the Evergreen Freedom Foundation versus the National Education Association with direction from the court that the matter would return to the Public Disclosure Commission.

Vicki Rippie noted that this decision was made on Friday, August 23, and in order to allow sufficient time for staff to prepare and Commission members to review the materials, the matter will

be discussed at the next commission meeting which is tentatively scheduled for October 2, 2002.

Commissioner Connelly also noted that the October 2 date would allow for appropriate notice to the public and the parties.

Citizen Comments/Concerns

No citizen comments or concerns were expressed.

Minutes

Motion 03-016

Moved by Commissioner Clement, seconded by Commissioner Martin:

The Commission adopts the minutes of the regular meeting of July 23, 2002, and the special meeting of August 1, 2002, as written.

The motion passed unanimously.

Enforcement Matters
Report

*Washington State Democratic
Central Committee, Case
#03-005 and Case #03-026*

Commissioner Connelly stated for the record that the Washington State Democratic Party contributed to his campaign for state representative in 1999. He also stated that it would not affect his ability to be fair and impartial.

Commissioner Clement noted that she was on the executive committee of the Washington State Democratic Central Committee (WSDCC) during 2000 and she recused herself from consideration of these cases.

Kevin Hamilton, attorney representing the Washington State Democratic Central Committee, requested a continuance of all matters before the Commission to allow further settlement negotiations.

Senior Assistant Attorney General Linda Dalton noted that there are two separate issues relating to the Washington State Democratic Central Committee. The first issue regarding C5 reports parallels a similar case against the Washington State Republican Party and individuals. The second pertains to late filings of C3 and C4 reports. She encouraged the Commission to keep all of the allegations together for purposes of litigation.

Susan Harris commented that after several good faith attempts to reach a settlement with the WSDCC, staff was unable to reach an agreement. She stated that the investigation is complete regarding late filings of C3 and C4 reports and staff is prepared to present the case. Ms. Harris noted that staff would not oppose tabling the C5 allegations in order to present the cases of all entities with similar charges to the Commission at one time.

Commissioner Connelly suggested continuing only issues pertaining to the C5 and moving forward with the other late filing allegations.

Motion 03-017

Moved by Commissioner Yorozu, seconded by Commissioner Brady:

The Commission tables PDC Case #03-026, Washington State Democratic Central Committee, until a future meeting.

The motion passed unanimously.

Susan Harris reported on a staff generated complaint against the Washington State Democratic Central Committee (WSDCC) for allegedly violating RCW 42.17.065, .080 and .090 by failing to timely report contributions to its exempt account during 2000. She stated that the WSDCC failed to timely file 57 C-3 reports totaling \$5,956, 418 and failed to report over \$1,065,000 in expenditures on time. She also noted that

WSDCC failed to file six reports of last minute contributions received within seven days of the primary election totaling \$505,603.

Ms. Harris summarized the case and reported that although staff does not believe the errors were intentional they do constitute gross negligence. Staff recommends that the Commission find that the WSDCC committed multiple apparent violations of RCW 42.17.065, .080, .090, and .105 and refer the matter to the Office of the Attorney General for further action.

Mr. Hamilton stated that the WSDCC has consistently complied with state statute for decades and the errors, although large in dollar amount, were innocent clerical errors and completely unintentional. He also noted that the WSDCC has fully cooperated with PDC staff, hired a consultant to review all of their records and voluntarily identified several additional reporting errors.

Commissioner Brady expressed concern over the huge amounts of money overlooked and questioned why the bank statements were not reconciled with PDC reports.

Mr. Paul Berendt, Chair of the WSDCC, replied by saying that the vast majority of the non-reported C3s were wire transfers. He also stated that unfortunately strong procedures were not in place to effectively track wire transfers at that time.

Motion 03-018

Moved by Commissioner Martin, seconded by Commissioner Brady:

The Commission finds apparent multiple violations of RCW 42.17.065, .080, .090 and .105 by the Washington State Democratic Central Committee, PDC Case #03-005, and refers the matter to the Office of the Attorney General for appropriate action given

**the insufficiency of its penalty
authority.**

The motion passed unanimously.

Vicki Rippie was authorized to sign the order on behalf of the Commission.

Rule-Making

Doug Ellis summarized potential rulemaking and noted that a stakeholder meeting was held to allow interested persons an opportunity to participate in the process.

*WAC 390-17-100 Contribution
withholding authorizations*

Mr. Ellis reported that Engrossed Senate Bill 6713 removed the requirement to annually renew a request for payroll deduction of wages or salaries for contributions to political committees or for use as political contributions. Staff provided two draft versions of the rule for Commission consideration, both of which are designed to comply with statutory changes to RCW 42.17.680.

Staff Amendment A incorporates standard changes such as the elimination of the annual reauthorization requirement and outdated language, but keeps the current rule language of RCW 42.17.680(2) regarding notification of an employee from whom wages or salary are withheld.

Staff Amendment B has the same standard changes as Amendment A but provides the option of using the exact statutory language under RCW 42.17.680(2) or a statement that informs the employee of the prohibition against employer and labor organization discrimination as described in the statute.

Jim Oswald representing the WA State Labor Council, stated that the labor council requests that the rule be revised to eliminate requirements that are inconsistent with FEC requirements and are not required by statute.

Motion 03-019

Moved by Commissioner Clement, seconded by Commissioner Yorozu:

The Commission approves draft language for amending WAC 390-17-100, Contribution withholding authorizations as presented in Staff Amendment A.

The motion passed unanimously.

*WAC 390-17-150 Employee
Notification of Withholding
Provisions*

Mr. Ellis reported that Chapter 156, Laws of 2002 requires annual notification of employees from whom wages or salary are withheld.

Both draft versions of the rule incorporate numerous concepts for consideration:

- Should any notification require the exact language of RCW 42.17.680(2);
- Should the public have direct access to the notification;
- Should withholding authorizations be suspended if the receiving entity fails to provide annual notification to employees; and
- Should the notification be a stand-alone document or part of general mailing and, if the later is deemed appropriate, should the rule specify the size and location of the notification within the general mailing document.

Jami Lund of the Evergreen Freedom Foundation commented that both draft rules offer inadequate protection to employees and to fair elections in Washington State. Mr. Lund also stated that the important issue is who is responsible for providing the notice.

Commissioner Connelly directed staff to continue working on draft language regarding implementing a new rule relating to making voluntary payroll

deductions and bring the topic back at a future meeting.

*WAC 390-16-234 Transfers of
Surplus Funds*

Legislative changes to RCW 42.17.095 in 1995 allowed candidates to transfer surplus funds without limit to a political party or to a caucus political committee. Initially this rule was designed to clarify the disposal of surplus funds when specific limits were in place for transfers to political parties or caucus committees. The draft amendment clarifies that the reimbursement of a campaign's share of joint campaign expenses is not considered a transfer of surplus or non-surplus campaign funds.

Motion 03-020

Moved by Commissioner Clement, seconded by Commissioner Yorozu:

The Commission approves the draft language for WAC 390-16-234, Transfers of Surplus Funds.

The motion passed unanimously.

*WAC 390-17-200 Major political
party organizations*

Minor changes to this rule are designed to clarify that a major political party must notify the Commission in writing once it has designated the official party county central committees and the official party legislative district committees.

Motion 03-021

Moved by Commissioner Yorozu, seconded by Commissioner Clement:

The Commission approves draft language for amending WAC 390-17-200, Major political party organizations.

The motion passed unanimously.

*WAC 390-37-030 Enforcement
procedures – Status of citizen
complainant and others*

Mr. Ellis reported current rule allows a complainant or any other person to submit evidence and statements to the Commission at any time during an enforcement process, up to and including the hearing.

Draft amendments allow the complainant to have an opportunity to submit additional evidence to PDC staff up to seven calendar days before an enforcement hearing or other proceeding. In addition, neither the complainant nor any other person would have an opportunity to be heard at the quasi-judicial enforcement hearing unless they are called as a witness by one of the parties.

The Commission directed staff to change the time frame for evidence to be submitted from seven days to five days and specify that a copy of the investigative report is to be provided to the complainant.

Motion 03-022

Moved by Commissioner Clement, seconded by Commissioner Martin:

The Commission approves draft language for amending WAC 390-17-030, Enforcement procedures – Status of citizen complainant and others, as discussed.

The motion passed unanimously.

Enforcement Matters (cont.)
Brad Benson, Case #03-025

Phil Stutzman summarized the case against Brad Benson for failing to file campaign reports electronically as required by RCW 42.17.3691 and entered exhibits 1 through 5 into the record.

Mr. Benson provided a letter stating that technical difficulties resulted in his inability to successfully transmit his forms in a timely manner. He also noted that those difficulties have been overcome and all forms are currently up to date.

Motion 03-023

Moved by Commissioner Brady, seconded by Commissioner Yorozu:

The Commission finds a violation of RCW 42.17.3691 in PDC Case #03-025, Brad Benson, and assesses a penalty of \$500 with \$250 suspended for two years based on no future violations of RCW 42.17.3691.

Voting For: Commissioners Brady, Yorozu, Clement and Martin.

Voting Against: Commissioner Connelly.

The motion passed.

Vicki Rippie was authorized to prepare and sign the order on behalf of the Commission.

Agency Request Legislation

Vicki Rippie discussed proposed legislation for the 2003 Legislative Session. She suggested that proposed legislation designed to increase the Commission's penalty authority and to modify the time frames associated with citizen action complaints be addressed in separate bills.

The Commission concurred with this recommendation.

Executive Session

The Commission went into executive session at 11:30 a.m. to discuss pending litigation with legal counsel and an employee's performance review.

Public Session

The Commission returned to public session at 12:10 p.m. Commissioner Connelly commented that the Commission has completed its evaluation of the executive director. He noted that Ms. Rippie is dedicated, hard working and serves the people of the State of Washington well.

Requests for Review

Larry Thompson, Case #02-588

Mr. Stutzman reported that a brief enforcement hearing was held June 4, 2002, in which Mr.

Thompson was found in violation of RCW 42.17.240 for failure to timely file a Statement of Financial Affairs. Mr. Thompson was assessed a penalty of \$100 and the form was filed on May 23, 2002.

Mr. Thompson was present and stated that his mother was ill and subsequently passed away. He had been traveling back and forth to California during the months of April and May.

There was no motion to review this matter.

*Richard D. Thompson, Case
#02-589*

Mr. Stutzman reported that a brief enforcement hearing was held June 4, 2002, in which Mr. Thompson was found in violation of RCW 42.17.240 for failure to timely file a Statement of Financial Affairs. Mr. Thompson was assessed a penalty of \$100 and the form was filed on May 28, 2002.

Mr. Thompson's wife was present and stated that the correspondence had been sent to her physical street address instead of to her P.O. Box and the only notification she received was the certified order. Ms. Thompson also stated that her husband works for the military and has been extremely busy since the events of September 11, 2001.

There was no motion to review this matter.

Philip Anderson, Case #02-361

Mr. Stutzman reported that a brief enforcement hearing was held June 4, 2002, in which Mr. Anderson was found in violation of RCW 42.17.240 for failure to timely file a Statement of Financial Affairs. Mr. Anderson was assessed a penalty of \$100 and the form was filed on May 24, 2002. Mr. Stutzman also noted that Mr. Anderson stipulated and paid the \$50 on May 29, 2002, however that information was not known at the time of the brief enforcement hearing.

Motion 03-024

Moved by Commissioner Clement, seconded by Commissioner Yorozu:

**The Commission vacates the order in
PDC Case #02-361, Philip Anderson.**

The motion passed unanimously.

Kenneth Benson, Case #02-370

Mr. Stutzman reported that a brief enforcement hearing was held June 4, 2002, in which Mr. Benson was found in violation of RCW 42.17.240 for failure to timely file a Statement of Financial Affairs. Mr. Benson was assessed a penalty of \$150.

Mr. Benson provided a letter which stated that he had resigned his position on the city council on March 19, 2002, and moved to Wenatchee.

There was no motion to review this matter.

Kevin Burke, Case #02-381

Mr. Stutzman reported that a brief enforcement hearing was held June 4, 2002, in which Mr. Burke was found in violation of RCW 42.17.240 for failure to timely file a Statement of Financial Affairs. Mr. Burke was assessed a penalty of \$100 and the form was filed on May 22, 2002.

Mr. Burke provided a letter stating that he filed when he ran for office and thought that he was up to date.

There was no motion to review this matter.

Ernest Charvet, Case #02-390

Mr. Stutzman reported that a brief enforcement hearing was held June 4, 2002, in which Mr. Charvet was found in violation of RCW 42.17.240 for failure to timely file a Statement of Financial Affairs. Mr. Charvet was assessed a penalty of \$100 and the form was filed on May 23, 2002.

There was no motion to review this matter.

John Ely, Case #02-411

Mr. Stutzman reported that a brief enforcement hearing was held June 4, 2002, in which Mr. Ely was found in violation of RCW 42.17.240 for failure to timely file a Statement of Financial

Affairs. Mr. Ely was assessed a penalty of \$150 and the form was filed on June 4, 2002.

Mr. Ely sent a letter stating that he has been going through a divorce and very rarely received mail, many times not until after the due date. He called Jim Kelly prior to the brief enforcement hearing and wanted to stipulate and pay using a debit card but was told that the PDC offices were not able to accept a debit card as payment.

There was no motion to review this matter.

Jerry Flowers, Case #02-419

Mr. Stutzman reported that a brief enforcement hearing was held June 4, 2002, in which Mr. Flowers was found in violation of RCW 42.17.240 for failure to timely file a Statement of Financial Affairs. Mr. Flowers was assessed a penalty of \$300 and the form was filed on July 15, 2002. Mr. Stutzman also noted that Mr. Flowers has one prior violation.

There was no motion to review this matter.

Larry Haskell, Case #02-436

Mr. Stutzman reported that a brief enforcement hearing was held June 4, 2002, in which Mr. Haskell was found in violation of RCW 42.17.240 for failure to timely file a Statement of Financial Affairs. Mr. Haskell was assessed a penalty of \$150.

Mr. Haskell provided a copy of his resignation letter stating that he had been selected to return to active duty. Mr. Haskell is currently in Louisiana and will serve in Southeast Asia for a minimum of two years.

Motion 03-025

Moved by Commissioner Clement:

The Commission vacates the order in PDC Case #02-436, Larry Haskell.

The motion died for lack of a second.

There was no further motion to review this matter.

Nancy Llewellyn, Case #02-482

Mr. Stutzman reported that a brief enforcement hearing was held June 4, 2002, in which Ms. Llewellyn was found in violation of RCW 42.17.240 for failure to timely file a Statement of Financial Affairs. Ms. Llewellyn was assessed a penalty of \$150. Mr. Stutzman noted that Ms. Llewellyn has one prior violation and she had resigned from the school board in March of 2002.

There was no motion to review this matter.

David McClanahan, Case #02-494

Mr. Stutzman reported that a brief enforcement hearing was held June 4, 2002, in which Mr. McClanahan was found in violation of RCW 42.17.240 for failure to timely file a Statement of Financial Affairs. Mr. McClanahan was assessed a penalty of \$150 and the form was filed on July 13, 2002.

Mr. McClanahan provided a letter stating that the correspondence from the PDC was sent to an incorrect PO Box number and he did not receive any correspondence prior to the certified order.

There was no motion to review this matter.

John McGee, Case #02-496

Mr. Stutzman reported that a brief enforcement hearing was held June 4, 2002, in which Mr. McGee was found in violation of RCW 42.17.240 for failure to timely file a Statement of Financial Affairs. Mr. McGee was assessed a penalty of \$300 and the form was filed on May 28, 2002. Mr. Stutzman noted that Mr. McGee has one prior violation.

Mr. McGee provided a letter requesting the Commission reduce the amount of the penalty.

There was no motion to review this matter.

Ed Oliphant, Case #02-512

Mr. Stutzman reported that a brief enforcement hearing was held June 4, 2002, in which Mr. Oliphant was found in violation of RCW 42.17.240 for failure to timely file a Statement of Financial

Affairs. Mr. Oliphant was assessed a penalty of \$300. Mr. Stutzman also noted that Mr. Oliphant has one prior violation.

There was no motion to review this matter.

Geary Oliver, Case #02-513

Mr. Stutzman reported that a brief enforcement hearing was held June 4, 2002, in which Mr. Oliver was found in violation of RCW 42.17.240 for failure to timely file a Statement of Financial Affairs. Mr. Oliver was assessed a penalty of \$150 and the form was filed on July 18, 2002.

Mr. Oliver provided a letter stating that the warning letters had been mixed up with other correspondence received at his home and he did not open the letters until the final order was received.

There was no motion to review this matter.

Eric Patton, Case #02-524

Mr. Stutzman reported that a brief enforcement hearing was held June 4, 2002, in which Mr. Patton was found in violation of RCW 42.17.240 for failure to timely file a Statement of Financial Affairs. Mr. Patton was assessed a penalty of \$150 and the form was filed on May 24, 2002.

Mr. Patton provided a letter stating that he originally mailed the F1A on March 7, 2002, and assumed that it had been received.

There was no motion to review this matter.

Richard Peone, Case #02-529

Mr. Stutzman reported that a brief enforcement hearing was held June 4, 2002, in which Mr. Peone was found in violation of RCW 42.17.240 for failure to timely file a Statement of Financial Affairs. Mr. Peone was assessed a penalty of \$150.

Mr. Peone provided a letter stating that he had been involved in an accident in February and moved to a new address.

There was no motion to review this matter.

Margaret St. Martin, Case #02-574 Mr. Stutzman reported that a brief enforcement hearing was held June 4, 2002, in which Ms. St. Martin was found in violation of RCW 42.17.240 for failure to timely file a Statement of Financial Affairs. Ms. St. Martin was assessed a penalty of \$150 and the form was filed on May 30, 2002.

Ms. St. Martin provided a letter stating that she mailed the form in sufficient time for it to arrive prior to the hearing. She did sign the statement of understanding but did not pay the \$50 late filing fee.

There was no motion to review this matter.

Yvonne Tate, Case #02-583 Mr. Stutzman reported that a brief enforcement hearing was held June 4, 2002, in which Ms. Tate was found in violation of RCW 42.17.240 for failure to timely file a Statement of Financial Affairs. Ms. Tate was assessed a penalty of \$100 and the form was filed on May 28, 2002.

Ms. Tate was present and stated that she did not receive the F1 packet prior to May 13 and the one week time frame addressed in the warning letter was not sufficient time to complete the form.

There was no motion to review this matter.

Robert J. Thompson, Case #02-590 Mr. Stutzman reported that a brief enforcement hearing was held June 4, 2002, in which Mr. Thompson was found in violation of RCW 42.17.240 for failure to timely file a Statement of Financial Affairs. Mr. Thompson was assessed a penalty of \$150 and the form was filed on August 7, 2002.

Mr. Thompson provided a letter stating that he had eye surgery in March and was unable to conduct his daily affairs for several weeks.

There was no motion to review this matter.

Michelle Yapp, Case #02-610

Mr. Stutzman reported that a brief enforcement hearing was held June 4, 2002, in which Ms. Yapp was found in violation of RCW 42.17.240 for failure to timely file a Statement of Financial Affairs. Ms. Yapp was assessed a penalty of \$150 and the form was filed on July 22, 2002.

Ms. Yapp provided a letter stating that her home was under remodel and it wasn't until July that she found correspondence regarding the missing filing. She requested the penalty be reduced.

There was no motion to review this matter.

Dorothy Yount, Case #02-612

Mr. Stutzman reported that a brief enforcement hearing was held June 4, 2002, in which Ms. Yount was found in violation of RCW 42.17.240 for failure to timely file a Statement of Financial Affairs. Ms. Yount was assessed a penalty of \$100 and the form was filed on May 22, 2002.

There was no motion to review this matter.

Personal Financial Affairs Reporting
New Modification Request

*Robert Macleod, Candidate,
Thurston County Commissioner*

Mr. Stutzman reported that Mr. Macleod requests an exemption from reporting the one governmental customer of Dancer's Communications Co., Inc., of which his spouse is president and 100 percent owner.

Patricia Kennedy was present to discuss the modification, however, after discussion with the Commission the request was withdrawn.

Renewals (no changes)

*Douglas Schafer, Candidate,
Supreme Court Justice*

Mr. Stutzman reported that Mr. Schafer requests an exemption from reporting the business customers of Vancouver Door Company, Inc., of which he is a director.

Motion 03-026

Moved by Commissioner Yorozu, seconded by
Commissioner Clement:

**The Commission grants the reporting
modification requested by Douglas Schafer.**

**The Commission finds that literal
application would cause a manifestly
unreasonable hardship on the applicant
and that a limited modification would not
frustrate the purposes of the act.**

The motion passed unanimously.

Staff Reports

Executive Director

Vicki Rippie discussed the closeout of the FY02 budget year and the start of the FY03 budget year. She also proposed a meeting schedule for the remainder of the calendar year.

Assistant Director

Susan Harris updated the Commission on the status of new candidate filings and noted that reminders will be mailed to candidates regarding the law change for special reports.

Chief Technology Officer

Michael Smith noted that the website statistics reflect a record number of users and added that the number is expected to increase as the election approaches.

Assistant Attorney General

Nancy Krier summarized the status of current cases and pending litigation.

Adjournment

Commissioner Connelly adjourned the meeting at 2:30 p.m. The next meeting is scheduled for Wednesday, October 2, 2002.

Approved by the Commission 10/02/02